

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2015-077-00917R

Parcel No. 100/02906-000-000

Terry Goepferich,

Appellant,

v.

Polk County Board of Review,

Appellee.

Introduction

This appeal came on for consideration before the Property Assessment Appeal Board (PAAB) on December 22, 2015. Terry Goepferich was self-represented and requested a written consideration of the appeal. Assistant Polk County Attorney Christina Gonzalez represented the Board of Review.

Goepferich is the owner of a residential, one-story home located at 3516 61st Street, Des Moines. The home, built in 1954, has 884 square feet of above grade finish; a full, unfinished basement; an open porch; and a two-car attached garage. The site is 0.310 acres.

The property's January 1, 2015, assessment was \$102,200, allocated as \$31,600 in land value and \$70,600 in improvement value. Goepferich's protest to the Board of Review claimed the assessment was not equitable as compared with assessments of other like property and that the property is assessed for more than authorized by law under Iowa Code sections 441.37(1)(a)(1)(a-b). Goepferich also wrote in the area of the petition reserved for a claim that there was an error in the assessment under section 441.37(1)(a)(1)(d); however, the error claim essentially reasserts his claim the property is over-assessed. The Board of Review denied the petition.

Goeperich appealed to PAAB and asserted the subject property's assessment should be \$53,030.

Findings of Fact

Goeperich submitted the following four properties and their assessments as equity comparables to the Board of Review.

	2015 Assessed Value	Gross Living Area (GLA)
Subject	\$102,200	884
3517 61st St	\$67,400	540
3606 61st St	\$88,100	551
3608 59th St	\$89,000	612
3309 61st St	\$86,100	720

The record indicates all of the properties are approximately 150-330 square feet smaller than the subject and 3309 61st Street does not have a basement. Moreover, there is no information indicating any of the properties have recently sold and Goeperich did not provide an opinion of market value for the properties. Therefore, an assessment/sale ratio analysis is unable to be developed. Simply comparing assessments is not sufficient evidence to support an equity claim.

Goeperich purchased the property from Nationstar Mortgage, LLC in May 2014 for \$53,030. (Ex. B). Because the property was bank-owned at the time it sold, it is not considered a normal transaction for assessment purposes. Goeperich did not provide any other evidence of the property's fair market value such as an appraisal, comparable sales, or a comprehensive market analysis.

Goeperich did not submit any new evidence to PAAB.

The Board of Review relied on four properties in its decision to deny the protest, summarized in the following chart.

	2015 Assessed Value	Gross Living Area (GLA)
Subject	\$102,200	884
3015 61st St	\$103,500	905
3333 61st St	\$117,900	840
3513 61st St	\$107,900	960
6129 Boston Ave	\$109,000	840

These properties are all similar size, one-story homes like the subject, and we find they are more comparable than Goepferich's properties. Like Goepferich's equity comparables, none of these properties has recently sold, and no opinion of market value was established to develop an assessment/sales ratio analysis. Nonetheless, the fact that the subject's assessment is lower than all of these comparables suggests its assessment is not inequitable.

Conclusions of Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. §§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

"(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination."

Id. at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires residential assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

Goepferich offered four properties for an equity analysis. However, none recently sold nor was an opinion of their market value established; therefore, there is insufficient evidence to determine an assessment/sales ratio using these properties. Moreover, Goepferich did not assert that the Assessor failed to uniformly apply an assessing method to similarly situated or comparable properties.

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Goepferich purchased the property in May 2014 for \$53,030; however, this was the sale from a lender, which indicates an abnormal sales condition. Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value under Iowa law. § 441.21(1)(b). However, “[s]ales prices of property in abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the effect of factors which distort market value, including . . . foreclosure or other forced sales.” *Id.* Because Goepferich's purchase of the property was from a lender, the subject property's sale price is not a reliable indicator of market value for the 2015 assessment.

Goepferich did not submit any other evidence of the 2015 fair market value of the subject property, such as an appraisal, an income analysis, a cost analysis, or any comparable properties adjusted for differences.

Based on the foregoing, we find Goepferich has not met his burden of establishing the property is over-assessed by a preponderance of the evidence.

Order

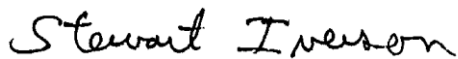
IT IS THEREFORE ORDERED that the Polk County Board of Review's action is affirmed.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

Dated this 11th day of February, 2016.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair

Copies to:
Terry Goeperich
Christina Gonzalez